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H. R. 1151

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Banking, Housing, and Urban
Affairs

AN ACT

To amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Credit Union Member-
5 ship Access Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The American credit union movement began
9 as a cooperative effort to serve the productive and
10 provident credit needs of individuals of modest
11 means.

12 (2) Credit unions continue to fulfill this public
13 purpose, and current members and membership
14 groups should not face divestiture from the financial
15 services institution of their choice as a result of re-
16 cent court action.

17 (3) To promote thrift and credit extension, a
18 meaningful affinity and bond among members,
19 manifested by a commonality of routine interaction,
20 shared and related work experiences, interests, or
21 activities, or the maintenance of an otherwise well-
22 understood sense of cohesion or identity is essential
23 to the fulfillment of credit unions’ public mission.

24 (4) Credit unions, unlike many other partici-
25 pants in the financial services market, are exempt

from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

TITLE I—CREDIT UNION MEMBERSHIP

SEC. 101. FIELDS OF MEMBERSHIP.

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—

(1) in the first sentence—

(A) by striking “Federal credit union membership shall consist of” and inserting “(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of”; and

(B) by striking “, except that” and all that follows through the period at the end of such sentence and inserting a period; and

1 (2) by adding at the end the following new sub-
2 sections:

3 “(b) MEMBERSHIP FIELD.—Subject to the other pro-
4 visions of this section, the membership of any Federal
5 credit union shall be limited to the membership described
6 in 1 of the following categories:

7 “(1) SINGLE COMMON-BOND CREDIT UNION.—
8 1 group which has a common bond of occupation or
9 association.

10 “(2) MULTIPLE COMMON-BOND CREDIT
11 UNION.—More than 1 group—

12 “(A) each of which has (within such
13 group) a common bond of occupation or asso-
14 ciation; and

15 “(B) the number of members of each of
16 which (at the time the group is first included
17 within the field of membership of a credit union
18 described in this paragraph) does not exceed
19 any numerical limitation applicable under sub-
20 section (d).

21 “(3) COMMUNITY CREDIT UNION.—Persons or
22 organizations within a well-defined local community,
23 neighborhood, or rural district.

24 “(c) GRANDFATHERED MEMBERS AND GROUPS.—

1 “(1) IN GENERAL.—Notwithstanding subsection
2 (b)—

3 “(A) any person or organization who is a
4 member of any Federal credit union as of the
5 date of the enactment of the Credit Union
6 Membership Access Act may remain a member
7 of such credit union after such date; and

8 “(B) a member of any group whose mem-
9 bers constituted a portion of the membership of
10 any Federal credit union as of such date of en-
11 actment shall continue to be eligible to become
12 a member of such credit union, by virtue of
13 membership in such group, after such date.

14 “(2) SUCCESSORS.—If the common bond of any
15 group referred to in paragraph (1) is defined by any
16 particular organization or business entity, paragraph
17 (1) shall continue to apply with respect to any suc-
18 cessor to such organization or entity.

19 “(d) MULTIPLE COMMON-BOND CREDIT UNION
20 GROUP REQUIREMENTS.—

21 “(1) NUMERICAL LIMITATION.—Except as pro-
22 vided in paragraph (2), only a group with fewer than
23 3,000 members shall be eligible to be included in the
24 field of membership of a credit union described in
25 subsection (b)(2).

1 “(2) EXCEPTIONS.—In the case of any Federal
2 credit union whose field of membership is deter-
3 mined under subsection (b)(2), the numerical limita-
4 tion described in paragraph (1) shall not apply with
5 respect to the following:

6 “(A) CERTAIN LARGER GROUPS INCAPA-
7 BLE OF SUPPORTING AND OPERATING A SIN-
8 GLE-GROUP CREDIT UNION.—Any group which
9 the Board determines, in writing and in accord-
10 ance with the guidelines and regulations de-
11 scribed in paragraph (4), could not feasibly or
12 reasonably establish a new single common-bond
13 credit union described in subsection (b)(1) be-
14 cause—

15 “(i) the group lacks sufficient volun-
16 teer and other resources to support the ef-
17 ficient and effective operation of a credit
18 union;

19 “(ii) the group does not meet the cri-
20 teria which the Board has determined to
21 be important for the likelihood of success
22 in establishing and managing a new credit
23 union, including demographic characteris-
24 tics, such as geographical location of mem-
25 bers, diversity of ages and income levels,

1 and other factors which may affect the fi-
2 nancial viability and stability of a credit
3 union; or

4 “(iii) the group would be unlikely to
5 operate a safe and sound credit union.

6 “(B) TRANSACTIONS FOR SUPERVISORY
7 REASONS.—Any group transferred from another
8 credit union—

9 “(i) in connection with a merger or
10 consolidation which has been recommended
11 by the Board or any appropriate State
12 credit union supervisor for safety and
13 soundness concerns with respect to such
14 other credit union; or

15 “(ii) by the Board in the Board’s ca-
16 pacity as conservator or liquidating agent
17 with respect to such other credit union.

18 “(3) EXCEPTION FOR UNDERSERVED AREAS.—
19 Notwithstanding subsection (b), in the case of a
20 Federal credit union described in paragraph (2) of
21 such subsection, the Board may allow the member-
22 ship of the credit union to include any person or or-
23 ganization within a local community, neighborhood,
24 or rural district if—

1 “(A) the Board determines that such local
2 community, neighborhood, or rural district—

3 “(i) meets the requirements of para-
4 graph (3) and subparagraphs (A) and (B)
5 of paragraph (4) of section 233(b) of the
6 Bank Enterprise Act of 1991, and such
7 additional requirements as the Board may
8 impose; and

9 “(ii) is underserved, based on data of
10 the Board and the Federal banking agen-
11 cies (as defined in section 3 of the Federal
12 Deposit Insurance Act), by other deposi-
13 tory institutions (as defined in section
14 19(b)(1)(A) of the Federal Reserve Act);
15 and

16 “(B) the credit union establishes and
17 maintains an office or facility in such local com-
18 munity, neighborhood, or rural district at which
19 credit union services are available.

20 “(4) REGULATIONS AND GUIDELINES.—The
21 Board shall issue guidelines or regulations, after no-
22 tice and opportunity for comment, setting forth the
23 criteria the Board will apply in determining whether
24 or not an additional group may be included within

1 the field of membership of an existing credit union
2 pursuant to paragraph (2).

3 “(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVI-
4 SIONS.—

5 “(1) MEMBERSHIP ELIGIBILITY LIMITED TO IM-
6 MEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No
7 individual shall be eligible for membership in a cred-
8 it union on the basis of the relationship of such indi-
9 vidual to another person who is eligible for member-
10 ship in such credit union unless the individual is a
11 member of the immediate family or household (as
12 such terms are defined by the Board by regulation)
13 of such other person.

14 “(2) RETENTION OF MEMBERSHIP.—Except as
15 provided in section 118, once a person becomes a
16 member of a credit union in accordance with this
17 title, such person or organization may remain a
18 member of such credit union until the person or or-
19 ganization chooses to withdraw from the member-
20 ship of the credit union.”.

21 **SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF**
22 **MEMBERSHIP OF MULTIPLE COMMON-BOND**
23 **CREDIT UNIONS.**

24 Section 109 of the Federal Credit Union Act (12
25 U.S.C. 1759) is amended by inserting after subsection (e)

1 (as added by section 101 of this title) the following new
2 subsection:

3 “(f) CRITERIA FOR APPROVAL OF EXPANSION OF
4 MULTIPLE COMMON-BOND CREDIT UNIONS.—

5 “(1) IN GENERAL.—The Board shall—

6 “(A) encourage the formation of separately
7 chartered credit unions instead of approving an
8 application to include an additional group with-
9 in the field of membership of an existing credit
10 union whenever practicable and consistent with
11 reasonable standards for the safe and sound op-
12 eration of the credit union; and

13 “(B) if the formation of a separate credit
14 union by such group is not practicable or con-
15 sistent with such standards, require the inclu-
16 sion of such group in the field of membership
17 of a credit union which is within reasonable
18 proximity to the location of the group whenever
19 practicable and consistent with reasonable
20 standards for the safe and sound operation of
21 the credit union.

22 “(2) APPROVAL CRITERIA.—The Board may
23 not approve any application by a Federal credit
24 union described in subsection (b)(2) to include any
25 additional group within the field of membership of

1 such credit union (or an application by a Federal
2 credit union described in paragraph (1) to include
3 an additional group and become a credit union de-
4 scribed in paragraph (2)) unless the Board deter-
5 mines, in writing, that—

6 “(A) such credit union has not engaged in
7 any unsafe or unsound practice (as defined in
8 section 206(b)) which is material during the 1-
9 year period preceding the filing of the applica-
10 tion;

11 “(B) the credit union is adequately capital-
12 ized;

13 “(C) the credit union has the administra-
14 tive capability to serve the proposed member-
15 ship group and the financial resources to meet
16 the need for additional staff and assets to serve
17 the new membership group;

18 “(D) pursuant to the most recent evalua-
19 tion of such credit union under section 215, the
20 credit union is satisfactorily providing afford-
21 able credit union services to all individuals of
22 modest means within the field of membership of
23 such credit union;

24 “(E) any potential harm the expansion of
25 the field of membership of the credit union may

1 have on any other insured credit union and its
 2 members is clearly outweighed in the public in-
 3 terest by the probable beneficial effect of the
 4 expansion in meeting the convenience and needs
 5 of the members of the group proposed to be in-
 6 cluded in the field of membership; and

7 “(F) the credit union has met such addi-
 8 tional requirements as the Board may prescribe
 9 in regulations.”.

10 **SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY**
 11 **CREDIT UNIONS.**

12 Section 109 of the Federal Credit Union Act (12
 13 U.S.C. 1759) is amended by inserting after subsection (f)
 14 (as added by section 102 of this title) the following new
 15 subsection:

16 “(g) REGULATIONS REQUIRED FOR COMMUNITY
 17 CREDIT UNIONS.—

18 “(1) DEFINITION OF WELL-DEFINED LOCAL
 19 COMMUNITY, NEIGHBORHOOD, OR RURAL DIS-
 20 TRICT.—The Board shall prescribe regulations defin-
 21 ing the term ‘well-defined local community, neigh-
 22 borhood, or rural district’ for purposes of—

23 “(A) making any determination with re-
 24 gard to the field of membership of a credit
 25 union described in subsection (b)(3); and

1 “(B) establishing the criteria applicable
2 with respect to any such determination.

3 “(2) SCOPE OF APPLICATION.—Paragraph (1)
4 shall apply with respect to any application to form
5 a new credit union, or to alter or expand the field
6 of membership of an existing credit union, which is
7 filed with the Board after the date of the enactment
8 of Credit Union Membership Access Act.”.

9 **TITLE II—REGULATION OF** 10 **CREDIT UNIONS**

11 **SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIRE-** 12 **MENTS.**

13 (a) IN GENERAL.—Section 202(a)(6) of the Federal
14 Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by
15 adding at the end the following new subparagraphs:

16 “(C) ACCOUNTING PRINCIPLES.—

17 “(i) IN GENERAL.—Accounting prin-
18 ciples applicable to reports or statements
19 required to be filed with the Board by each
20 insured credit union shall be uniform and
21 consistent with generally accepted account-
22 ing principles.

23 “(ii) BOARD DETERMINATION.—If the
24 Board determines that the application of
25 any generally accepted accounting principle

1 to any insured credit union is not appro-
2 priate, the Board may prescribe an ac-
3 counting principle for application to such
4 credit unions which is no less stringent
5 than generally accepted accounting prin-
6 ciples.

7 “(iii) DE MINIMUS EXCEPTION.—This
8 subparagraph shall not apply to any in-
9 sured credit union the total assets of which
10 are less than \$10,000,000 unless pre-
11 scribed by the Board or an appropriate
12 State credit union supervisor.

13 “(D) LARGE CREDIT UNION AUDIT RE-
14 QUIREMENT.—Each insured credit union which
15 has total assets of \$500,000,000 or more shall
16 have an annual independent audit of the finan-
17 cial statement of the credit union performed in
18 accordance with generally accepted auditing
19 standards by an independent certified public ac-
20 countant or public accountant licensed by the
21 appropriate State or jurisdiction to perform
22 such services.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—

24 Section 202(a)(6)(B) of the Federal Credit Union Act (12

1 1786(b)(6)(B)) is amended by striking “subparagraph
2 (A)” and inserting “subparagraph (A) or (D)”.

3 **SEC. 202. CONVERSIONS OF CREDIT UNIONS INTO OTHER**
4 **DEPOSITORY INSTITUTIONS.**

5 (a) REVIEW OF REGULATIONS REQUIRED.—The Na-
6 tional Credit Union Administration Board shall conduct
7 a detailed review of all regulations which govern or affect
8 the conversion of a credit union into any other form of
9 depository institution, including regulations relating to the
10 form of disclosure required preceding a vote by the mem-
11 bers of a credit union with regard to any such conversion
12 and the manner in which such vote shall be conducted,
13 to ensure that such regulations freely and fairly permit
14 any such conversion after free, fair, and objective disclo-
15 sure to the members of the credit union of the facts and
16 issues involved in any such conversion.

17 (b) REPORT TO THE CONGRESS.—

18 (1) IN GENERAL.—Before the end of the 12-
19 month period beginning on the date of the enact-
20 ment of this Act, the National Credit Union Admin-
21 istration Board shall submit a detailed report on the
22 findings and conclusions of the Board in connection
23 with the review required under subsection (a).

24 (2) CONTENTS OF REPORT.—The report sub-
25 mitted pursuant to paragraph (1) shall contain—

1 (A) any recommendation for any adminis-
2 trative or legislative change which the Board
3 may determine to be appropriate with regard to
4 any aspect of the conversion of a credit union
5 into another form of depository institution; and

6 (B) the justification for any recommenda-
7 tion of the Board—

8 (i) to retain in effect any provision of
9 the regulations in effect on March 13,
10 1998, which govern or affect the conver-
11 sion of a credit union into any other form
12 of depository institution; or

13 (ii) to amend or alter any such provi-
14 sion.

15 (c) DEFINITIONS.—For purposes of this section, the
16 following definitions shall apply:

17 (1) CREDIT UNION.—The term “credit union”
18 means any Federal credit union or State credit
19 union (as such terms are defined in paragraphs (1)
20 and (6), respectively, of section 101 of the Federal
21 Credit Union Act).

22 (2) DEPOSITORY INSTITUTION.—The term “de-
23 pository institution” has the meaning given such
24 term in section 3 of the Federal Deposit Insurance
25 Act.

1 **SEC. 203. FREEZE ON BOARD REGULATIONS RELATING TO**
2 **COMMERCIAL LOANS AND CERTAIN AP-**
3 **PRaisal REQUIREMENTS RELATING TO**
4 **SUCH LOANS.**

5 (a) IN GENERAL.—The regulations of the National
6 Credit Union Administration Board which are codified in
7 parts 701.21(h) and 722.3(a) of the Code of Federal Reg-
8 ulations, as in effect on March 13, 1998 (relating to busi-
9 ness loans and lines of credit to members and appraisal
10 requirements), including any other regulations which are
11 applicable with respect to loans or lines of credit to which
12 the part applies, shall remain in effect without amendment
13 or altered application until the end of the 1-year period
14 beginning on such date and, notwithstanding the Federal
15 Credit Union Act or any other provision of law, any action
16 of the National Credit Union Administration Board, or the
17 National Credit Union Administration, on or after such
18 date which purports to amend (including an amendment
19 by substitution) or otherwise apply any such regulation
20 differently than in effect on such date shall have no force
21 or legal effect before the end of such 1-year period.

22 (b) REVIEW AND REPORT TO THE CONGRESS.—Be-
23 fore the end of the 1-year period described in subsection
24 (a), the National Credit Union Administration Board shall
25 conduct a review of the effectiveness of the regulations re-
26 ferred to in such subsection as in effect on March 13,

1 1998, and shall submit a report to the Congress on the
 2 results of such review before the end of such 1-year period.

3 **SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN**
 4 **THE FIELD OF MEMBERSHIP OF CREDIT**
 5 **UNIONS.**

6 (a) IN GENERAL.—Title II of the Federal Credit
 7 Union Act (12 U.S.C. 1781 et seq.) is amended by adding
 8 at the end the following new section:

9 **“SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN**
 10 **THE FIELD OF MEMBERSHIP OF CREDIT**
 11 **UNIONS.**

12 “(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—
 13 The purpose of this section is to reaffirm that insured
 14 credit unions have a continuing and affirmative obligation
 15 to meet the financial services needs of persons of modest
 16 means consistent with safe and sound operation.

17 “(b) EVALUATION BY THE BOARD.—The Board
 18 shall, before the end of the 12-month period beginning on
 19 the date of the enactment of the Credit Union Membership
 20 Access Act—

21 “(1) prescribe criteria for periodically reviewing
 22 the record of each insured credit union in providing
 23 affordable credit union services to all individuals of
 24 modest means (including low- and moderate-income

1 individuals) within the field of membership of such
2 credit union; and

3 “(2) provide for making the results of such re-
4 view publicly available.

5 “(c) ADDITIONAL CRITERIA FOR COMMUNITY CRED-
6 IT UNIONS REQUIRED.—The Board shall, by regulation—

7 “(1) prescribe additional criteria for annually
8 evaluating the record of any insured credit union
9 which is organized to serve a well-defined local com-
10 munity, neighborhood, or rural district in meeting
11 the credit needs and credit union service needs of
12 the entire field of membership of such credit union;
13 and

14 “(2) prescribe procedures for remedying the
15 failure of any insured credit union described in para-
16 graph (1) to meet the criteria established pursuant
17 to such paragraph, including the disapproval of any
18 application by such credit union to expand the field
19 of membership of such credit union.

20 “(d) EMPHASIS ON PERFORMANCE, NOT PAPER-
21 WORK.—In evaluating any insured credit union under this
22 section, the Board shall—

23 “(1) focus on the actual performance of the in-
24 sured credit union; and

1 “(2) not impose burdensome paperwork or rec-
2 ordkeeping requirements.”.

3 (b) ANNUAL REPORTS.—With respect to each of the
4 1st 5 years which begin after the date of the enactment
5 of this Act, the National Credit Union Administration
6 Board shall include in the annual report to the Congress
7 under section 102(d) of the Federal Credit Union Act a
8 report on the progress of the Board in implementing sec-
9 tion 215 of such Act (as added by subsection (a) of this
10 section).

11 **SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION**
12 **BOARD MEMBERSHIP.**

13 Section 102(b) of the Federal Credit Union Act (12
14 1752a(b)) is amended—

15 (1) by striking “(b) The Board” and inserting
16 “(b) MEMBERSHIP AND APPOINTMENT OF
17 BOARD.—

18 “(1) IN GENERAL.—The Board”; and

19 (2) by adding at the end the following new
20 paragraph:

21 “(2) APPOINTMENT CRITERIA.—

22 “(A) EXPERIENCE IN FINANCIAL SERV-
23 ICES.—In considering appointments to the
24 Board under paragraph (1), the President shall
25 give consideration to individuals who, by virtue

1 of their education, training, or experience relat-
2 ing to a broad range of financial services, finan-
3 cial services regulation, or financial policy, are
4 especially qualified to serve on the Board.

5 “(B) LIMIT ON APPOINTMENT OF CREDIT
6 UNION OFFICERS.—Not more than 1 member of
7 the Board may be appointed to the Board from
8 among individuals who, at the time of such ap-
9 pointment, are, or have recently been, involved
10 with any insured credit union as a committee
11 member, director, officer, employee, or other in-
12 stitution-affiliated party.”.

13 **SEC. 206. REPORT AND CONGRESSIONAL REVIEW REQUIRE-**
14 **MENT FOR CERTAIN REGULATIONS.**

15 Any regulation prescribed by the National Credit
16 Union Administration Board defining, or amending the
17 definition of—

18 (1) the term “immediate family or household”
19 for purposes of subsection (e)(1) of section 109 of
20 the Federal Credit Union Act (as added by section
21 101 of this Act); or

22 (2) the term “well-defined local community,
23 neighborhood, or rural district” for purposes of sub-
24 section (g) of such section (as added by section 103
25 of this Act),

1 shall be treated as a major rule for purposes of chapter
 2 8 of title 5, United States Code.

3 **TITLE III—CAPITALIZATION AND** 4 **NET WORTH OF CREDIT UNIONS**

5 **SEC. 301. PROMPT CORRECTIVE ACTION.**

6 (a) IN GENERAL.—Title II of the Federal Credit
 7 Union Act (12 U.S.C. 1781 et seq.) is amended by insert-
 8 ing after section 215 (as added by section 204 of this Act)
 9 the following new section:

10 **“SEC. 216. PROMPT CORRECTIVE ACTION**

11 **“(a) RESOLVING PROBLEMS TO PROTECT FUND.—**

12 **“(1) PURPOSE.—**The purpose of this section is
 13 to resolve the problems of insured credit unions at
 14 the least possible long-term loss to the National
 15 Credit Union Share Insurance Fund.

16 **“(2) PROMPT CORRECTIVE ACTION RE-**
 17 **QUIRED.—**The Board shall carry out the purpose of
 18 this section by taking prompt corrective action to re-
 19 solve the problems of insured credit unions.

20 **“(b) REGULATIONS.—**The Board shall implement
 21 subsection (a) of this section by prescribing regulations,
 22 after public notice and opportunity for comment, which—

23 **“(1) establish criteria and procedures for**
 24 **classifying credit unions as ‘well capitalized’, ‘ade-**

1 quately capitalized’, ‘undercapitalized’, ‘significantly
2 undercapitalized’, or ‘critically undercapitalized’;

3 “(2) specify a series of graduated regulatory en-
4 forcement actions that may be imposed upon any
5 credit union which fails to meet the requirements for
6 classification as an adequately capitalized credit
7 union, including—

8 “(A) the submission of net worth restora-
9 tion plans;

10 “(B) earnings retention requirements;

11 “(C) prior written approval by the Board
12 for certain activities such as branching and
13 entry into new lines of business; and

14 “(D) the appointment of a conservator or
15 liquidating agent in appropriate circumstances;

16 “(3) establish reasonable net worth require-
17 ments, including risk-based net worth requirements
18 in the case of complex credit unions, for various cat-
19 egories of credit unions and prescribe the manner in
20 which net worth is calculated (for purposes of such
21 requirements) with regard to various types of invest-
22 ments, including investments in corporate credit
23 unions, taking into account the unique nature and
24 role of credit unions;

1 “(4) establish criteria for reclassifying the cap-
2 ital classifications of credit unions that engage in
3 unsafe or unsound practices; and

4 “(5) are generally comparable with the prompt
5 corrective action provisions set forth in section 38 of
6 the Federal Deposit Insurance Act, taking into ac-
7 count the distinct capital structure, cooperative na-
8 ture, and other characteristics of credit unions.”.

9 (b) EFFECTIVE DATE OF REGULATIONS.—

10 (1) PROPOSED REGULATIONS.—The National
11 Credit Union Administration Board shall publish, in
12 the Federal Register, proposed regulations which
13 meet the requirements of the amendment made by
14 subsection (a) before the end of the 270-day period
15 beginning on the date of the enactment of this Act.

16 (2) FINAL REGULATIONS.—The regulations re-
17 quired by the amendment made by subsection (a)
18 shall take effect in final form by the end of the 18-
19 month period beginning on the date of the enact-
20 ment of this Act.

21 (c) REPORT TO CONGRESS.—At the time the pro-
22 posed prompt corrective action regulations are published
23 in the Federal Register by the National Credit Union Ad-
24 ministration Board pursuant to subsection (b)(1), the
25 Board shall submit a report to the Congress on the dif-

ferences and similarities between such prompt corrective action regulations and the regulations prescribed by the Federal bank agencies under section 38 of the Federal Deposit Insurance Act.

**SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE
FUND EQUITY RATIO, AVAILABLE ASSETS
RATIO, AND STANDBY PREMIUM CHARGE.**

(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) by amending subsection (b) to read as follows:

“(b) CERTIFIED STATEMENT.—

“(1) STATEMENT REQUIRED.—

“(A) IN GENERAL.—For each calendar year in the case of an insured credit union with total assets of not more than \$50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of \$50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge

1 due to the fund for that period, both as com-
 2 puted under subsection (c).

3 “(B) EXCEPTION FOR NEWLY INSURED
 4 CREDIT UNION.—Subparagraph (A) shall not
 5 apply with respect to a credit union that be-
 6 came insured during the reporting period.

7 “(2) FORM.—The certified statements required
 8 to be filed with the Board pursuant to this sub-
 9 section shall be in such form and shall set forth such
 10 supporting information as the Board shall require.

11 “(3) CERTIFICATION.—The president of the
 12 credit union or any officer designated by the board
 13 of directors shall certify, with respect to each such
 14 statement, that to the best of his or her knowledge
 15 and belief the statement is true, correct, complete,
 16 and in accordance with this title and the regulations
 17 issued under this title.”;

18 (2) by amending clause (iii) of subsection
 19 (c)(1)(A) to read as follows:

20 “(iii) PERIODIC ADJUSTMENT.—The
 21 amount of each insured credit union’s de-
 22 posit shall be adjusted as follows, in ac-
 23 cordance with procedures determined by
 24 the Board, to reflect changes in the credit
 25 union’s insured shares:

1 “(I) annually, in the case of an
2 insured credit union with total assets
3 of not more than \$50,000,000; and

4 “(II) semi-annually, in the case
5 of an insured credit union with total
6 assets of \$50,000,000 or more.”;

7 (3) by amending paragraphs (2) and (3) of sub-
8 section (c) to read as follows:

9 “(2) INSURANCE PREMIUM CHARGES.—

10 “(A) IN GENERAL.—Each insured credit
11 union shall, at such times as the Board pre-
12 scribes (but not more than twice in any cal-
13 endar year), pay to the fund a premium charge
14 for insurance in an amount stated as a percent-
15 age of insured shares (which shall be the same
16 for all insured credit unions).

17 “(B) RELATION OF PREMIUM CHARGE TO
18 EQUITY RATIO OF FUND.—The Board may as-
19 sess a premium charge only if—

20 “(i) the fund’s equity ratio is less
21 than 1.3 percent; and

22 “(ii) the premium charge does not ex-
23 ceed the amount necessary to restore the
24 equity ratio to 1.3 percent.

1 “(C) PREMIUM CHARGE REQUIRED IF EQ-
2 UNITY RATIO FALLS BELOW 1.2 PERCENT.—If
3 the fund’s equity ratio is less than 1.2 percent,
4 the Board shall, subject to subparagraph (B),
5 assess a premium charge in such an amount as
6 the Board determines to be necessary to restore
7 the equity ratio to, and maintain that ratio at,
8 1.2 percent.

9 “(3) DISTRIBUTIONS FROM FUND REQUIRED.—

10 “(A) IN GENERAL.—The Board shall effect
11 a pro rata distribution to insured credit unions
12 after each calendar year if, as of the end of that
13 calendar year—

14 “(i) any loans to the fund from the
15 Federal Government, and any interest on
16 those loans, have been repaid;

17 “(ii) the fund’s equity ratio exceeds
18 the normal operating level; and

19 “(iii) the fund’s available assets ratio
20 exceeds 1.0 percent.

21 “(B) AMOUNT OF DISTRIBUTION.—The
22 Board shall distribute under subparagraph (A)
23 the maximum possible amount that—

24 “(i) does not reduce the fund’s equity
25 ratio below the normal operating level; and

1 “(ii) does not reduce the fund’s avail-
2 able assets ratio below 1.0 percent.

3 “(C) CALCULATION BASED ON CERTIFIED
4 STATEMENTS.—In calculating the fund’s equity
5 ratio and available assets ratio for purposes of
6 this paragraph, the Board shall determine the
7 aggregate amount of the insured shares in all
8 insured credit unions from insured credit
9 unions certified statements under subsection (b)
10 for the final reporting period of the calendar
11 year referred to in subparagraph (A).”;

12 (4) by adding at the end of subsection (c) the
13 following new paragraph:

14 “(4) TIMELINESS AND ACCURACY OF DATA.—In
15 calculating the available assets ratio and equity ratio
16 of the fund, the Board shall use the most current
17 and accurate data reasonably available.”; and

18 (5) by amending subsection (h) to read as fol-
19 lows:

20 “(h) DEFINITIONS.—For purposes of this section, the
21 following definitions shall apply:

22 “(1) AVAILABLE ASSETS RATIO.—The term
23 ‘available assets ratio’, when applied to the fund,
24 means the ratio of—

1 “(A) the amount determined by subtract-
2 ing—

3 “(i) direct liabilities of the fund and
4 contingent liabilities for which no provision
5 for losses has been made, from

6 “(ii) the sum of cash and the market
7 value of unencumbered investments au-
8 thorized under section 203(c), to

9 “(B) the aggregate amount of the insured
10 shares in all insured credit unions.

11 “(2) EQUITY RATIO.—The term ‘equity ratio’,
12 when applied to the fund, means the ratio of—

13 “(A) the amount of fund capitalization, in-
14 cluding insured credit unions’ 1 percent capital-
15 ization deposits and the fund’s retained earn-
16 ings balance (net of direct liabilities of the fund
17 and contingent liabilities for which no provision
18 for losses has been made), to

19 “(B) the aggregate amount of the insured
20 shares in all insured credit unions.

21 “(3) INSURED SHARES.—The term ‘insured
22 shares’, when applied to this section, includes share,
23 share draft, share certificate, and other similar ac-
24 counts as determined by the Board, but does not in-

1 clude amounts exceeding the insured account limit
2 set forth in section 207(c)(1).

3 “(4) NORMAL OPERATING LEVEL.—The term ‘normal
4 operating level’, when applied to the fund, means an equity
5 ratio specified by the Board, which shall be not less than
6 1.2 percent and not more than 1.5 percent.”.

7 (b) EFFECTIVE DATE.—This section shall become ef-
8 fective on January 1 of the first calendar year beginning
9 more than 180 days after the date of enactment of this
10 Act.

11 **SEC. 303. ACCESS TO LIQUIDITY.**

12 Section 204 of the Federal Credit Union Act (12
13 U.S.C. 1784) is amended by adding at the end the follow-
14 ing new subsections:

15 “(f) ACCESS TO LIQUIDITY.—The Board shall—

16 “(1) periodically assess the potential liquidity
17 needs of each insured credit union, and the options
18 that the credit union has available for meeting those
19 needs; and

20 “(2) periodically assess the potential liquidity
21 needs of insured credit unions as a group, and the
22 options that insured credit unions have available for
23 meeting those needs.

24 “(g) SHARING INFORMATION WITH FEDERAL RE-
25 SERVE BANKS.—The Board shall, for the purpose of fa-

1 cilitating insured credit unions’ access to liquidity, make
 2 available to the Federal reserve banks (subject to appro-
 3 priate assurances of confidentiality) information relevant
 4 to making advances to such credit unions, including the
 5 Board’s reports of examination.”.

6 **TITLE IV—MISCELLANEOUS** 7 **PROVISIONS**

8 **SEC. 401. ASSURING INDEPENDENT DECISION MAKING IN** 9 **CONNECTION WITH CERTAIN CONVERSIONS.**

10 Section 18 of the Federal Deposit Insurance Act (12
 11 U.S.C. 1828) is amended by adding at the end the follow-
 12 ing new subsection:

13 “(t) CONVERSIONS INVOLVING FORMER CREDIT
 14 UNIONS.—

15 “(1) IN GENERAL.—Notwithstanding any other
 16 provision of law—

17 “(A) an insured credit union may not con-
 18 vert into an insured depository institution; and

19 “(B) an insured depository institution
 20 which resulted from a prior conversion of an in-
 21 sured credit union into such insured depository
 22 institution may not convert from the mutual
 23 form to the stock form and may not convert
 24 from 1 form of depository institution into an-
 25 other,

1 unless the appropriate Federal banking agency for
2 the insured depository institution which results from
3 any such conversion reviews the conversion and de-
4 termines that the requirements of paragraphs (2)
5 and (3) have been met.

6 “(2) PROHIBITION ON ECONOMIC BENEFIT
7 FROM CONVERSION FOR CREDIT UNION OFFICERS,
8 DIRECTORS, AND COMMITTEE MEMBERS.—An indi-
9 vidual who is or, at any time during the 5-year pe-
10 riod preceding any conversion described in para-
11 graph (1), was a director, committee member, or
12 senior management official of an insured credit
13 union described in subparagraph (A) or (B) of such
14 paragraph (in connection with such conversion) may
15 not receive any economic benefit as a result of the
16 conversion with regard to the shares or interests of
17 such director, member, or officer in the former in-
18 sured credit union or in any resulting insured depos-
19 itory institution.

20 “(3) ACKNOWLEDGEMENT AND ATTESTATION
21 BY OFFICERS, DIRECTORS, AND COMMITTEE MEM-
22 BERS.—Any insured credit union or insured deposi-
23 tory institution which is seeking to engage in a con-
24 version which is subject to this subsection shall sub-
25 mit—

1 “(A) a written acknowledgement, in such
2 form and manner as the appropriate Federal
3 banking agency may prescribe, by every individ-
4 ual who is subject to the prohibition contained
5 in paragraph (2), that such individual is aware
6 of such prohibition; and

7 “(B) an attestation that the conversion
8 under review will not result in a violation of
9 such prohibition.

10 “(4) DEFINITIONS.—For purposes of this sub-
11 section, the following definitions shall apply:

12 “(A) INSURED CREDIT UNION.—The term
13 ‘insured credit union’ has the meaning given to
14 such term in section 101(7) of the Federal
15 Credit Union Act.

16 “(B) SENIOR MANAGEMENT OFFICIAL.—
17 The term ‘senior management official’ means a
18 chief executive officer, an assistant chief execu-
19 tive officer, a chief financial officer, and any
20 other senior executive officer (as defined by the
21 appropriate Federal banking agency pursuant
22 to section 32(f)).”.

Passed the House of Representatives April 1, 1998.

Attest:

ROBIN H. CARLE,

Clerk.